

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ILA LaFRENTZ, JIM LaFRENTZ,
KATHERINE PORTERFIELD, and
WILLIAM LaFRENTZ, Individually
and as Representative of the Estate
of JAMES B. LaFRENTZ**

vs.

3M COMPANY, ET AL

§
§
§
§
§
§
§
§
§
§

**CIVIL ACTION NO. 4:18-cv-04229
JURY DEMANDED**

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

This Court has considered 3M Company's Motion for Summary Judgment and finds that there is no genuine dispute as to any material fact and that 3M is entitled to judgment as a matter of law.

Plaintiffs' claims against 3M fail, because their evidence does not satisfy the *Borg-Warner* substantial-factor causation standard, which requires a plaintiff to show the frequency, regularity, and proximity of his exposure to asbestos, and that his dose of asbestos attributable to a defendant's product was a substantial factor in causing his claimed injury. *Borg-Warner Corp. v. Flores*, 232 S.W. 3d 765, 772-73 (Tex. 2007). Plaintiffs have produced only a one-minute air sampling report, which counted fibers that may or may not be asbestos. And the Plaintiffs' expert's approximate dose calculation, founded on the sample, is speculation unfit to show a genuine issue for trial.

Plaintiffs' fraudulent-misrepresentation claim fails for an additional reason: Plaintiffs have failed to produce evidence that their decedent, James B. LaFrentz, read or relied upon any 3M representation. *McReynolds v. Barrett Daffin Frappier Turner & Engel, LLP*, 2013 WL

754240, at *3 (S.D. Tex. Feb. 27, 2013); *Glenn v. L. Ray Calhoun & Co.*, 83 F. Supp. 3d 733, 745 (W.D. Tex. 2015).

Plaintiffs' failure-to-warn claims also fail for two additional reasons. One, 3M has no duty to warn consumers of dangers associated with products manufactured by others, even if such products will be used in connection with 3M's own product. *Phares v. Actavis-Elizabeth LLC*, 892 F. Supp. 2d 835, 845 (S.D. Tex. 2012) (quoting *Firestone Steel Prods. Co. v. Barajas*, 927 S.W.2d 608, 614 (Tex. 1996)). And two, like Plaintiffs' fraudulent misrepresentation claim, this claim fails because LaFrentz neither read nor relied on the warnings and instructions that 3M provided.

Accordingly, it is ORDERED that:

1. 3M's motion is Granted.
2. All claims asserted against 3M are dismissed with prejudice.

SO ORDERED, this _____ day of _____, 2021.

Andrew S. Hanen
United States District Judge

PREPARED BY:

/s/ Michele E. Taylor
William Book
Southern District Bar No. 1761
Michele E. Taylor
Southern District Bar No. 14240
Leah M. Homan
Southern District Bar No. 3438531

TAYLOR BOOK ALLEN & MORRIS, L.L.P.
1221 McKinney, Suite 4300
LyondellBasell Tower
Houston, Texas 77010
Telephone: (713) 222-9542
Facsimile: (713) 655-7727
E-mail: wbook@taylorbook.com
E-mail: mt@taylorbook.com
E-mail: lhoman@taylorbook.com

and

/s/ Kevin B. Brown

Kevin B. Brown
Southern District Bar No.: 732586
THOMPSON, COE, COUSINS & IRONS, L.L.P.
700 N. Pearl Street, 25th Floor
Dallas, Texas 75201
Telephone: (214) 871-8200
Facsimile: (214) 871-8209
E-mail: kbrown@thompsoncoe.com

and

/s/ W. Curt Webb

W. Curt Webb
State Bar No.: 21035900
BECK REDDEN, LLP
1221 McKinney Street, Suite 4500
Houston, Texas 77010
Telephone: (713) 951-3700
Facsimile: (713) 951-3720
E-mail: cwebb@beckredden.com

and

/s/ Zandra Foley

Zandra Foley
Southern District Bar No.: 632778
THOMPSON, COE, COUSINS & IRONS, L.L.P.
One Riverway, Suite 1400
Houston, Texas 77056
Telephone: (713) 403-8200
Facsimile: (713) 403-8299
E-mail: zfoley@thompsoncoe.com

and

/s/ L. Michael Brooks, Jr.

WELLS, ANDERSON & RACE, LLC

1700 Broadway, Suite 1020

Denver, Colorado 80290

Telephone: (303) 812-1256

Facsimile: (303) 830-0898

Email: mbrooks@warllc.com

**COUNSEL FOR DEFENDANT
3M COMPANY**